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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

SEP 27 2002

In the Matter of

Revision of the Commission's Rules  
to Ensure Compatibility with Enhanced  
911 Emergency Calling Systems

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

CC Docket No. 94-102

To: Wireless Telecommunications Bureau

**LITCHFIELD COUNTY CELLULAR, INC.  
D/B/A RAMCELL OF OREGON  
PETITION FOR LIMITED WAIVER  
OF SECTION 20.18(g) OF THE COMMISSION'S RULES**

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**LITCHFIELD COUNTY CELLULAR, INC.  
D/B/A RAMCELL OF OREGON  
PETITION FOR LIMITED WAIVER  
OF SECTION 20.18(g) OF THE COMMISSION'S RULES**

Litchfield County Cellular, Inc. d/b/a Ramcell of Oregon ("Ramcell of Oregon"), hereby requests a limited waiver of the Phase II Enhanced 911 ("E911") obligations set forth in Sections 20.18 (g)(1) and (g)(2) of the Commission's rules, 47 C.F.R. §§ 20.18(g)(1), (g)(2). Specifically, Ramcell of Oregon requests a limited waiver of these rules to extend the handset and network upgrade compliance deadlines in accordance with the compliance schedule established for Tier III carriers in the Commission's *Stay Order*.<sup>1</sup> As set forth below, the Commission has already found that, for similarly situated carriers, good cause exists to grant the requested waiver because strict application of Sections 20.18(g)(1) and (g)(2) would be inequitable, unduly burdensome, and contrary to the public interest.<sup>2</sup>

**I. INTRODUCTION & SUMMARY**

Ramcell of Oregon is the licensee of Station KNKN393 on the B Block portion of the Oregon 5 – Coos RSA. As a rural carrier, Ramcell of Oregon provides cellular service to

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<sup>1</sup> *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers*, 17 FCC Rcd. 14841 (2002) ("*Stay Order*").

<sup>2</sup> *Id.* at ¶ 17.

consumers in central Oregon. It is a truly 'small' wireless carrier, with a system consisting of 26 cell sites. The system covers four sparsely populated counties, the largest of which has a population of little more than 101,000, and the smallest has fewer than 22,700 people, totaling approximately 260,800 people (far fewer than the 500,000 customer cut-off for Tier III carriers). By way of comparison, most Metropolitan Statistical Areas and many Rural Service Areas have single cities that have greater populations than all of Ramcell of Oregon's four counties combined.

Ramcell of Oregon is committed to public safety and roll-out of E911; its goal is to provide ubiquitous availability of reliable, enhanced public safety to its customers. Ramcell of Oregon is also committed to delivering E911 to its customers expeditiously, accurately and cost effectively.

Ramcell of Oregon interacts with four public safety answering points ("PSAPs") throughout the four counties included in its service area. Many of these PSAPs are small entities that are not yet capable of deploying Phase II E911 service. Indeed, to date, Ramcell of Oregon has received no PSAP requests for Phase II E911 service. Thus, even if Ramcell of Oregon had been capable of meeting the October 1, 2001 deadline for deploying location-capable handsets, none of its customers would have received the service due to a lack of PSAP readiness.

On November 9, 2000, Ramcell of Oregon reported to the Commission its intent to test and implement a handset-based automatic location information ("ALI") solution for reaching Phase II E911 compliance, as required by the then-applicable E911 deployment schedule.<sup>3</sup> Unfortunately, however, it soon became evident that small carriers like Ramcell of Oregon would not be able to meet the Commission's E911 Phase II implementation deadlines. Simply

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<sup>3</sup> See Litchfield County Cellular, d/b/a Ramcell of Oregon Report on Enhanced 911 Phase II Implementation, CC Docket No. 94-102 (Nov. 9, 2000) ("*Ramcell of Oregon E911 Report*"); 47 C.F.R. §§ 20.18(g), 20.18(i).

put, the handset and network equipment the carriers needed to satisfy the Commission's requirements would not be available to the small carriers in sufficient time to meet the deployment deadlines. To that end, numerous non-nationwide wireless providers filed petitions seeking additional time to comply with the Commission's E911 Phase II rules, pursuant to a Public Notice released on October 12, 2001.<sup>4</sup> Ramcell of Oregon erred in not filing a request for relief at that time.

On July 26, 2002, the Commission released its *Stay Order*, temporarily staying the application of certain E911 Phase II deadlines set forth in Sections 20.18(f) and (g) to two classes of non-nationwide CMRS providers.<sup>5</sup> In that order, the Commission recognized that small-sized carriers would be unable to meet the Commission's aggressive schedule for implementing Phase II E911.<sup>6</sup> The Commission also found that a "temporary stay of the initial and interim Phase II deadlines is consistent with the public interest because it allows for a more efficient rollout of E911."<sup>7</sup> The Commission, therefore, granted a 7-month stay of the compliance deadline for medium-sized, or "Tier II," carriers, and a 13-month stay for small, or "Tier III," carriers, such as Ramcell of Oregon.<sup>8</sup> Despite its broad findings and action, the Commission limited the application of the *Stay Order* to carriers who filed requests for relief from the E911 Phase II rules.<sup>9</sup>

On July 30, 2002, the Commission's Enforcement Bureau sent a letter to Ramcell of Oregon asking for information on whether Ramcell of Oregon "is in compliance with the Enhanced 911 ("E911") Phase II rules." On August 28, 2002, Ramcell of Oregon submitted the

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<sup>4</sup> "Commission Establishes Schedule for E911 Phase II Requests by Small and Mid-Sized Wireless Carriers," Public Notice, FCC 01-302 (rel. Oct. 12, 2001).

<sup>5</sup> *Stay Order*, 17 FCC Rcd. 14841 at ¶ 1.

<sup>6</sup> *Id.* at ¶ 11.

<sup>7</sup> *Id.* at ¶ 16.

<sup>8</sup> *Id.* The Commission established two tiers of carriers covered by the *Stay Order*; "Tier II" carriers, carriers with over 500,000 subscribers by the end of 2001, and "Tier III" carriers, carriers satisfying a "small business" standard approved by the Small

declaration of Jill D. Ramsey, responding to the Bureau's questions and pledging to file the instant petition for waiver within 30 days.

Ramcell of Oregon has been working diligently to satisfy its E911 obligations. Recently, Ramcell of Oregon executed a binding contract with a service provisioning company to assist in providing E911 services. Ramcell of Oregon has positioned itself to provide Phase I E911 service as quickly as possible upon receiving a valid PSAP request. Even though Ramcell of Oregon continues to work with its vendors, meeting the Commission's benchmarks is not possible at this time. Ramcell of Oregon, therefore, respectfully request that the Commission grant a limited waiver of Section 20.18(g) to extend Ramcell of Oregon's Phase II E911 deployment deadlines to be the same as the extended deadlines established for other Tier III carriers.

## **II. GOOD CAUSE EXISTS FOR GRANT OF A LIMITED WAIVER**

Section 20.18(g) permits carriers electing to utilize a handset-based solution to phase-in Phase II E911 service subject to certain requirements.<sup>10</sup> Section 20.18(g)(1) sets forth certain phase-in deadlines which are applicable "[w]ithout respect to any PSAP request."<sup>11</sup> Section 20.18(g)(2) sets forth additional deadlines which are applicable "[o]nce a PSAP request is received."<sup>12</sup> Ramcell of Oregon is requesting a limited waiver of Sections 20.18(g)(1) and (g)(2) to extend its deployment deadlines to be the same as the extended dates established in the *Stay Order*.<sup>13</sup>

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*Business Administration. Id.* at ¶ 25.

<sup>9</sup> *Id.* at ¶ 10, n. 21.

<sup>10</sup> 47 C.F.R. § 20.18(g).

<sup>11</sup> *Id.* § 20.18(g)(1).

<sup>12</sup> *Id.* § 20.18(g)(2).

<sup>13</sup> The specific deadlines are as follows:

- Without respect to any PSAP request for deployment of Phase II 911 enhanced service, the licensee shall:
- i. Begin selling and activating location-capable handsets no later than **September 1, 2003**;

The FCC may waive its rules for good cause shown.<sup>14</sup> The FCC may also grant a request for waiver where it is shown that unique or unusual factual circumstances would render application of the rules inequitable, unduly burdensome or contrary to the public interest.<sup>15</sup> Further, in the specific context of the E911 rules, the Commission has found that there may be some instances where petitions for waiver of the Phase II E911 rules would be necessary, particularly if there are “technological issues” or “exceptional circumstances” which are preventing the deployment of such services.<sup>16</sup> Ramcell of Oregon’s request for limited waiver meets these standards.

In particular, Ramcell of Oregon submits that the underlying purpose of the rules will not be frustrated by a grant of the requested waiver. As noted above, none of the PSAPs in Ramcell of Oregon’s territory have requested Phase II E911 service. Thus, an extension of the compliance deadline will not delay roll-out of E911 in Ramcell of Oregon’s markets.

Furthermore, Ramcell of Oregon notes that the Commission has already determined that a limited waiver of the Phase II E911 implementation deadlines for small and mid-sized carriers is in the public interest.

We find that small and mid-sized carriers have a legitimate need for a stay of the initial Phase II implementation deadlines. Based on this record we conclude that handset vendors and network-based location technology vendors give priority to the larger, nationwide carriers. Nationwide carriers’ deployment schedules have created downstream delays for Tier II and III carriers. We

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- ii. Ensure that at least 25 percent of all new handsets activated are location-capable no later than **November 30, 2003**;
  - iii. Ensure that at least 50 percent of all new handsets are location-capable no later than **May 31, 2004**;
  - iv. Ensure that 100 percent of all new digital handsets activated are location-capable no later than **November 30, 2004**; and
  - v. Ensure that penetration of location-capable handsets among its subscribers reaches 95 percent no later than **December 31, 2005**.

<sup>14</sup> 47 C.F.R. § 1.3.

<sup>15</sup> 47 C.F.R. § 1.925 (b)(3)(ii); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) *cert. denied*, 409 U.S. 1027 (1972).

<sup>16</sup> *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, 15 FCC Rcd. 17442 ¶ 42 (2000) (“*Fourth MO&O*”).

find that there are temporary and special circumstances applicable to the carriers identified herein that constitute a sufficient basis to grant a stay on a limited and temporary basis from our Phase II deadlines.<sup>17</sup>

As discussed below, Ramcell of Oregon submits that it has the same legitimate need for a waiver of the initial Phase II implementation deadlines as that recognized for other Tier III carriers. Ramcell of Oregon is, by any definition, a small carrier and meets the Commission's definition of a Tier III carrier. Further, like almost all other small and mid-sized carriers, Ramcell of Oregon's efforts to meet the Commission's E911 Phase II deployment schedule faced almost insurmountable obstacles resulting from the handset and network vendors' focus on serving the large nationwide carriers. Consequently, Ramcell of Oregon is seeking nothing more, and nothing less, than the relief granted other Tier III carriers in the *Stay Order*.

**A. Technological Issues and Exceptional Circumstances Warrant Grant of a Limited Waiver of Section 20.18(g)(1)**

Ramcell of Oregon's plans and schedule for deploying the handset location solution in its market are necessarily dependant upon the progress made by the equipment vendors in the manufacture and distribution of the necessary equipment, including handset and network elements. Like small carriers across the nation, Ramcell of Oregon has particular difficulty in obtaining ALI capable handsets due to two factors. First, there are few ALI capable handsets on the market, and most of these handsets do not trickle down to small carriers. One consequence of the FCC proscribing ALI deadlines has been to concentrate industry-wide demand for ALI handsets within specified timeframes. Second, due to the relatively small volume of handsets that Ramcell of Oregon requires, Ramcell of Oregon cannot purchase handsets directly from the manufacturer but must rely on third-party vendors. This further dilutes Ramcell of Oregon's ability to obtain ALI capable handsets.

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<sup>17</sup> *Id.*, 17 FCC Rcd. 14841 at ¶ 11.

Ramcell of Oregon does not rely on one manufacturer for handsets, rather it sells cellular telephones manufactured by Motorola, Nokia, Kyocera and Audiovox. The Ramcell of Oregon vendor selling the Nokia ALI handsets states that the units will be available by the end of the 2<sup>nd</sup> quarter of 2003. Similarly, Ramcell of Oregon's vendors for Kyocera and Motorola phones states that they will not be providing ALI capable phones until the 4<sup>th</sup> quarter of 2002.

Ramcell of Oregon must emphasize that these dates are the dates that handsets will be *generally available*. The general availability date, however, bears only limited relation to the date by which Ramcell of Oregon can expect to obtain the hands sets from its vendors. In Ramcell of Oregon's experience, it is not until between 6-9 months after the general availability date that handsets are made available to Ramcell of Oregon.

The Audiovox CDM9155 handset provides an excellent example of the delay between general availability and availability to Ramcell of Oregon. Although this location capable and is already generally available, Ramcell of Oregon's vendors, however, do not currently have these handsets available in stock. Further, when the vendors did have these telephones in stock, they were unwilling to sell them to Ramcell of Oregon. Ramcell of Oregon was on the waiting list to obtain the Audiovox CDM9155 cellular telephone, and only recently has been able to purchased one unit, and place an additional order for ten more units. Nevertheless, it expects that at least a year will pass before it is able to obtain any real volume of these phones to sell to the public.

In sum, due to the massive demand for location capable phones, Ramcell of Oregon expects that it will take at least a year to obtain any real volume of these handsets. Without access to Phase II E911 capable handsets, it is impossible for Ramcell of Oregon to meet the Commission's benchmarks as currently established in Section 20.18(g)(1). At this time, however, projects that it will be able to secure the necessary network software and ALI



compliant handsets in sufficient time to meet the extended Phase II E911 deployment deadline established for Tier III carriers in the *Stay Order*.

**B. Waiver of Section 20.18(g)(2) is Also Warranted**

Ramcell of Oregon also requests a limited waiver of Section 20.18(g)(2) of the Commission's rules to extend its deployment deadlines to the deadlines adopted for Tier III carriers in the *Stay Order*. As noted above, Section 20.18(g)(2) governs once a carrier receives a PSAP request for Phase II E911 service. Again, Ramcell of Oregon has received no requests from any PSAP for Phase II E911, but nevertheless requires a limited waiver of this rule.

Ramcell of Oregon utilizes a Lucent switch – 5ESSR14 – running ECP15 software. To become Phase II E911 compliant, Ramcell of Oregon must first upgrade the software to ECP16 and then upgrade the switch to 5ESSR15. In addition to upgrading the software and switch, Ramcell of Oregon must replace the 2 cellular processing units located at each cell site with 2 High Capacity Cellular Processor Units. Once these changes are in place, Ramcell of Oregon still must test the upgrades on its network. More important, however, even if the switch is made Phase II E911 compliant, Ramcell of Oregon may not be able to meet (g)(2) because, as discussed above, its customers will have no ALI capable handsets. Consequently, Ramcell may not be able to begin “delivering” Phase II E911 service to the PSAP within the current deadline. Accordingly, Ramcell of Oregon requests that its Section 20.18(g)(2) deadline be extended to the deadline set in the *Stay Order*.

**C. The Requested Limited Waiver Will Serve the Public Interest**

Ramcell of Oregon supports the Commission's goals to improve public safety and extend ALI to wireless callers. Ramcell of Oregon agrees that wireless phones can be a vital, life-saving way to call for assistance in emergency situations. Further, Phase II E911 services will enable

emergency response teams to operate more efficiently because ALI can be applied to route these calls to the proper PSAP and provide emergency service providers with far better location information.

As the Commission has recognized, however, the temporary and limited waiver of the Phase II E911 rules sought herein and granted in the *Stay Order* will not unduly delay roll-out of Phase II E911. Indeed, such an extension of time is necessary “to minimize delay of deployment of E911.”<sup>18</sup> As explained above, there are technical and equipment availability problems that prevent Ramcell of Oregon from implementing Phase II E911 pursuant to the deadlines established in Section 20.18(g). The *Stay Order* is designed to ease that problem by permitting manufacturers to create a three phased ALI rollout, allowing the large nationwide carriers and their vendors to focus on implementing Phase II E911 in their markets first. It is Ramcell of Oregon’s belief that it, and the other small carriers, will learn from the deployment experiences of Tier 1 and Tier 2 carriers, which should make the roll-out in smaller markets more efficient. Further, Ramcell of Oregon is requesting a limited waiver which will not interrupt its ongoing E911 deployment efforts. Thus, granting Ramcell of Oregon a limited waiver subject to the terms of the *Stay Order* will serve the same public interest benefits served by the Commission’s original *Stay Order*.

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<sup>18</sup> *Stay Order*, 17 FCC Rcd. 14841 at ¶ 15.

## CONCLUSION

For the forgoing reasons, Ramcell of Oregon respectfully submits that its waiver request is in the public interest and should be granted. Further, Ramcell of Oregon commits to keep the Commission abreast of its Phase II E911 progress, and, will submit an Interim Report by the August 1, 2003 deadline set forth in the *Stay Order*. At that time Ramcell of Oregon will provide specific data as to the progress of its Phase II E911 implementation. Ramcell of Oregon will also include in its Interim Report any information it has at that time regarding the level of its A.I.I accuracy and reliability.

Respectfully submitted,

LITCHFIELD COUNTY CELLULAR, INC.  
D/B/A RAMCELL OF OREGON

By:   
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J. Wade Lindsay

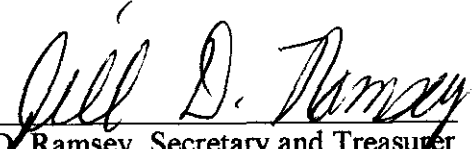
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## DECLARATION

I, Jill D. Ramsey, being of legal age, do hereby state and declare as follows:

I am the Secretary and Treasurer of Litchfield County Cellular, Inc. d/b/a Ramcell of Oregon. I have reviewed the foregoing Petition for Limited Waiver. I declare under penalty of perjury that the information presented in that document is true and correct to the best of my knowledge, information and belief. Executed on this 26th day of September, 2002.

FURTHER DECLARANT SAYETH NAUGHT

  
\_\_\_\_\_  
Jill D. Ramsey, Secretary and Treasurer  
Litchfield County Cellular, Inc. d/b/a  
Ramcell of Oregon